

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 938 - HB 1401**

April 10, 2023

**SUMMARY OF BILL:** Requires every individual or group health insurance policy providing coverage on an expense-incurred basis, every policy or contract issued by a hospital or medical service corporation, every individual or group service contract issued by a health maintenance organization, and every self-insured group arrangement, to the extent not preempted by federal law, to provide coverage for over-the-counter (OTC) contraceptives that have been approved by the federal Food and Drug Administration (FDA) for every female who is 13 years of age or older covered by such policy. Applies to plans delivered, issued for delivery, or renewed on or after January 1, 2024.

**FISCAL IMPACT:**

**Increase State Expenditures - \$1,040,600/FY23-24**  
**\$2,081,100/FY24-25 and Subsequent Years**

**Increase Federal Expenditures - \$700/FY23-24**  
**\$1,300/FY24-25 and Subsequent Years**

**Increase Local Expenditures - \$1,200/FY23-24\***  
**\$2,400/FY24-25 and Subsequent Years\***

**Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111):** Such legislation will result in an increase in the cost of health insurance premiums to cover the additional costs of the required procedures. It is estimated that the increase to each individual's total premium will be less than one percent.

**Assumptions:**

- The proposed legislation does not apply to the TennCare program or the CoverRx program.
- According to information provided by the Division of TennCare, the CoverKids program currently provides coverage for FDA-approved OTC contraceptives; therefore, no impact to CoverKids.
- The Affordable Care Act requires states to defray the costs of state-mandated benefits in qualified health plans (QHPs) that are in excess of the essential health benefits (EHB).

- The state will be required to defray the cost of benefits required in the proposed legislation because the benefits exceed those provided under Tennessee's EHB benchmark plan.
- As of February 2023, the Department of Commerce and Insurance showed a total population of 319,094 individuals covered under QHPs.
- According to estimates from multiple QHP providers, the increase in costs per member per month as a result of the proposed legislation will be approximately \$0.54.
- The proposed legislation applies to plans delivered on or after January 1, 2024.
- This would result in an increase in state expenditures required to defray the cost of \$1,033,865  $[(\$0.54 \times 12 \times 319,094) \times 50.0\%]$  in FY23-24 and \$2,067,729  $(\$0.54 \times 12 \times 319,094)$  in FY24-25 and subsequent years.
- Based on information provided by the Division of Benefits Administration, the state group insurance plan (SGIP) paid a total of \$104,871 for contraceptives in calendar year 2022. This number is assumed to remain consistent.
- The SGIP only covers OTC contraceptives with a prescription. The proposed legislation would require all OTC contraceptives approved by the FDA to be covered.
- This analysis assumes that there will be a 25 percent increase in OTC contraceptive coverage as a result of the proposed legislation. There will be a resulting increase in expenditures of \$26,218  $(\$104,871 \times 25.0\%)$  for individuals covered under the SGIP.
- It is estimated that 48 percent of members are on the State Employee Plan, 43 percent are on the Local Education Plan and 9 percent are on the Local Government Plan.
- The state contributes 80 percent of member premiums resulting in a recurring increase in state expenditures of \$10,068  $(\$26,218 \times 48.0\% \times 80.0\%)$ .
- Some state plan members' insurance premiums are funded through federal dollars. It is estimated 13.33 percent of the state share of the state plan is funded with federal dollars, resulting in an increase in federal expenditures of \$1,342  $(\$10,068 \times 13.33\%)$ .
- The state contributes 45 percent of instructional member premiums (75 percent of Local Education Plan members) and 30 percent of support staff member premiums (25 percent of Local Education Plan members) resulting in state expenditures of \$4,651  $[(\$26,218 \times 43.0\% \times 75.0\% \times 45.0\%) + (\$26,218 \times 43.0\% \times 25.0\% \times 30.0\%)]$ .
- The state does not contribute to the Local Government Plan. It is estimated the Local Government Plan would be responsible for a mandatory increase in local expenditures estimated to be \$2,360  $(\$26,218 \times 9.0\%)$ .
- The proposed legislation applies to plans delivered on or after January 1, 2024; therefore, the SGIP will only be impacted for 50 percent of FY23-24.
- The increase in state expenditures from the SGIP is estimated to be \$6,688  $[(\$10,068 - \$1,342 + \$4,651) \times 50.0\%]$  in FY23-24 and \$13,377  $(\$10,068 - \$1,342 + \$4,651)$  in FY24-25 and subsequent years.
- The total increase in state expenditures is estimated to be \$1,040,553  $(\$1,033,865 + \$6,688)$  in FY23-24 and \$2,081,106  $(\$2,067,729 + \$13,377)$  in FY24-25 and subsequent years.
- The total increase in federal expenditures is estimated to be \$671  $(\$1,342 \times 50.0\%)$  in FY23-24 and \$1,342 in FY24-25 and subsequent years.
- The total mandatory increase in local expenditures is estimated to be \$1,181  $(\$2,360 \times 50.0\%)$  in FY23-24 and \$2,360 in FY24-25 and subsequent years.

- Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation will result in an increase in the cost of health insurance premiums to cover the patient's share of the cost of procedures and treatments covered by plans. It is estimated that the increase to each individual's total premium will be less than one percent.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost*

## **IMPACT TO COMMERCE:**

**Increase Business Revenue – \$1,042,400/FY23-24  
\$2,084,800/FY24-25 and Subsequent Years**

**Increase Business Expenditures –  
Less than \$1,042,400/FY23-24  
Less than \$2,084,800/FY24-25 and Subsequent Years**

### **Assumptions:**

- Healthcare providers will experience an increase in business revenue of \$1,042,405 in FY23-24 and \$2,084,808 in FY24-25 and subsequent years for providing additional services.
- The increase in business expenditures is estimated to be less than those amounts for companies to retain solvency.
- Additional effects upon private insurance carriers and healthcare providers will be dependent upon various unknown factors subject to the rates and contractual agreements comprising each individual policy of healthcare and cannot be determined with reasonable certainty.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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